

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

LeRoy Koppendrayner
Marshall Johnson
Ken Nickolai
Thomas Pugh
Phyllis A. Reha

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Petition of Northern States
Power Company d/b/a Xcel Energy and
Dairyland Cooperative for a Certificate of Need
for a 115 kV and 161 kV Transmission Line
from Taylors Falls to Chisago County
Substation

ISSUE DATE: February 12, 2007

DOCKET NO. E-002/CN-04-1176

ORDER ACCEPTING CERTIFICATE OF
NEED APPLICATION AS SUBSTANTIALLY
COMPLETE PENDING SUBMISSION OF
ADDITIONAL DATA

PROCEDURAL HISTORY

In November 2002, Northern States Power Company d/b/a Xcel Energy and Dairyland Power Cooperative (hereinafter Applicants) filed a petition for exemption from certain parts of Minn. Rules Chapter 7849.

On April 8, 2003, the Commission issued its Order Granting Exemption in Part and Requiring Supplementary Filing and Notice.

In July 2004, Applicants filed a Notice Plan for a certificate of need for the Chisago County project. On October 6, 2004, the Commission issued an Order Approving Notice Plan with Modifications. Applicants did not implement the notice plan nor file the associated certificate of need.

On June 30, 2006, Applicants filed a revised notice plan, which addressed the modifications required in the Commission's 2004 Order. On October 6, 2006, the Commission approved and further modified the revised notices.

On November 16, 2006, Applicants filed their application for a certificate of need.

On January 2, 2007, the Department of Commerce (the Department) filed comments on the completeness of Applicants' application.

On January 5, 2007, Applicants filed an application for a route permit for this transmission project under the alternative permitting process, Docket No. E-002/TL-06-1677.

On January 25, 2006, the certificate of need and routing matters came before the Commission. At the hearing, the Commission heard from all parties, as well as members of the public, John Reinhardt and Carol Overland.

On the same date that it issued this Order, the Commission issued a Notice and Order for Hearing¹ and an Order Accepting Route Permit Application as Complete, Authorizing Selection of Public Advisor, and Combining Environmental Review and Public Hearing.²

FINDINGS AND CONCLUSIONS

I. Applicants' Request for a Certificate of Need

Applicants have requested a certificate of need for an approximately 18 mile portion of the Chisago County-Apple River transmission project. The proposal would replace an existing 69 kV transmission line with a new 115 and 161 kV line between the Chisago County substation near North Branch, Minnesota and the Apple River substation near Amery, Wisconsin, for approximately 40 miles. The Minnesota portion of the project consists of a 115 kV line between the Chisago substation and a new Lawrence Creek substation that would be located on the west side of Taylors Falls. The 161 kV portion of the project would run from the new Lawrence Creek substation to the St. Croix River, where it would cross into Wisconsin.

Applicants' proposed transmission facility is a "large energy facility" as defined in Minn. Stat. § 216B.2421, subd. 2(3) and requires, therefore, a certificate of need from the Commission prior to construction.³

II. Department's Review of the Completeness of Applicants' Application

The Department commented on the completeness of the application and the appropriate review process that should be used to develop the record and consider the merits of the petition.

The Department identified the following information deficiencies in the filing:

- Minn. Rule 7849.0240, subps. 2B and C: pre-application promotional activities and effect on future development;
- Minn. Rule 7849.0260, subp. C(3): estimated average annual availability;
- Minn. Rule 7849.0260, subp. C(5); effect on rates;
- Minn. Rule 7849.0280, subp. B-H: includes various system capacity data;
- Minn. Rule 7849.0290, subps. A, C, and F: conservation programs; and
- Minn. Rule 7849.0330, subp. B(3): heat release of underground cable.

The Department also raised an issue arising under Minn. Rules 7849.0260, subps. A(3) and C(6), which requires an applicant to indicate expected line losses of the proposed project. The Department was unable to locate the expected line losses under projected maximum and average loading in the length of the transmission line and at terminals and substations as required.

¹ Docket No. E-002/CN-04-1176; E-002/TL-06-1677.

² Docket No. E-002/TL-06-1677.

³ Minn. Stat § 216B.243, subd. 2.

The Department stated that Applicants should have requested an exemption to the data requirements and substituted data for the local system. As the timing requirements associated with such a request make this inappropriate, the Department recommended that Applicants provide reply comments addressing how the Commission could resolve the issue given the requirements under the Commission's rules and procedures.

The Department recommended that the application be considered complete upon the submission of the above-identified data. The Department also recommended that the Commission utilize a non-contested review process to develop the record in this case.

III. Public Comments

Two members of the public appeared at the Commission hearing on this matter to address particular concerns, specifically:

- 1) the issue of encouraging and increasing public participation in the certificate of need process; and
- 2) encouraging the Commission to proceed via a formal contested case proceeding.

John Reinhardt asserted that the certificate of need process should include a formal public advisor, to advise citizens on the proceedings and the procedure necessary to participate in the process. He requested that the Commission create and make available to the public an information pamphlet regarding the certificate of need process. Carol Overland urged the Commission to proceed via a contested case process.

IV. Commission Analysis and Action

The Commission finds that Applicants' application for a certificate of need is substantially complete, pending the submission of a supplement addressing the additional information requested by the Department and specified in Paragraph 1 of this Order.

The Commission will utilize a formal contested case proceeding, and by separate order issued this day refers the matter to the Office of Administrative Hearings.

Where the certificate of need application and the route permit application are filed in close proximity to each other, Commission rules encourage the Commission to combine the environmental review responsibilities under the certificate of need process with the environmental review requirements under the routing process.⁴ The Commission will combine the environmental review and public hearing aspects of the certificate of need and routing process. The Commission also directs that the environmental assessment address the certificate of need analysis of alternatives.⁵

⁴ Minn. Rules 4410.7060.

⁵ Minn. Rules 4410.7035.

The Commission values and encourages public participation in the certificate of need process.⁶ By separate order issued this day, the Commission has named a public advisor to facilitate and coordinate public participation in the contested case proceeding. The Commission also concurs that creation of a brochure or information packet to assist and advise the public on participation in the certificate of need process would be useful and in a separate docket also heard on January 25 has directed Commission staff to develop such a brochure or information packet.⁷

The environmental review and public hearing aspects of the need and routing process will be combined.⁸

ORDER

1. The Commission accepts the application as substantially complete, pending the submission of additional data identified by the Department, including:
 - Minn. Rules 7849.0240, subps. 2B and C: pre-application promotional activities and effect on future development;
 - Minn. Rules 7849.0260, subp. C(3): estimated average annual availability;
 - Minn. Rules 7849.0260, subp. C(5); effect on rates;
 - Minn. Rules 7849.0280, subp. B-H: includes various system capacity data;
 - Minn. Rules 7849.0290, subps. A, C, and F: conservation programs;
 - Minn. Rules 7849.0330, subp. B(3): heat release of underground cable; and
 - Minn. Rules 7849.0260, subps. A(3) and C(6) : expected line losses of the proposed project
2. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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⁶ Minn. Stat. § 216B.243, subd. 4.

⁷ In the Matter of the Application of Northern States Power d/b/a/ Xcel Energy for Certificates of Need for Three 115 kV Transmission Lines in Southwestern Minnesota, *Order Accepting Certificate of Need Application as Substantially Complete, Contingent on Submission of Additional Data*, Docket No. E-002/CN-06-154.

⁸ Docket No. E-002/TL-06-1677.